IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.
WRIT PETITION NO.5870 OF 2006

1.Shri Vithal Parashram Bhosale, .. Petitioner (Orig.Deft)

Vs

1. Uttam Raosaheb Phadtare
and ors. .. Respondents (Orig.plff & (Defts)

Mr P.S.Gole, for the petitioner.
Mr A.R.Kapadnis, for respondent no.1.

CORAM : D.B.BHOSALE,J.
DATE : 18.10.2006

PC:

1. Heard the learned counsel for the parties.

2. Rule. Returnable forthwith. Mr.Kapadnis, learned counsel, waives service for respondent no.1. By consent, rule is heard forthwith.

3. The petitioner has impugned the order dated 28.6.2006, by which his application at Exhibit-26 in R.C.A. No.83 of 2000 has been rejected. By that application, the petitioners sought to add few more grounds in the Appeal Memo. I would not like to express any opinion as to the merits of the grounds which the petitioner sought to add in the Appeal Memo and it is open for the parties to raise their contentions on merits in the course of hearing of the appeal. Mr.Kapadnis, learned counsel for the respondent though

initially opposed the writ petition, fairly stated that heavy cost be imposed for allowing the petitioner to add the grounds and the appeal court be directed to dispose of the appeal within timeframe since the appeal is pending for last more than 6-7 years. After having considered the submissions advanced by the learned counsel for the parties and the overall facts and circumstances of the case, I am inclined to allow this petition subject to payment of cost. Hence, I pass the following order.

(a) The order dated 28.6.2006 is quashed and set aside. The application at Exhibit-26 is allowed. The petitioner to carry out the amendment within two weeks from the date of receipt of this order subject to payment of cost of Rs.3000/- to the respondent-plaintiff. If the petitioner fails to pay cost and carry out the amendment within the time aforestated, the appeal court to proceed with hearing of the appeal and decide the same on merits. The appeal court shall endeavour to dispose of the appeal as expeditiously as possible and in any case within a period of six months from the date of receipt of this order.

(b) Parties are directed to co-operate with disposal of the appeal within time stipulated in this order.

(D.B.BHOSALE,J.)